



Generally Speaking

Comings and Goings

Congratulations to **Bethel ADA Dawson Williams** and wife **Genevieve** on the birth of **Paxson Revel Williams**.

LOA **Annie Ellis** transferred to the Oil, Gas and Mining Section; **Deanna DeMaagd** joined the section as an LOA.

Congratulations to **Molly Benson** on her promotion to Litigation Assistant in the Natural Resources Section.

Welcome back **AAG Joseph "Joe" Cooper**, who has returned to the Workers' Compensation Section. He will handle defense of workers' compensation claims. Joe returned to the department after approximately 15 years in private practice.

The Oil, Gas & Mining Section is happy to announce the arrival of **Jonathan Katchen**, the newest attorney in that section.

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The Natural Resources Section was delighted to add three attorneys to the Anchorage office this month. On November 16, **Anne Nelson** joined the section, followed by **Mike Sewright** on November 20, and **Tina Otto** on November 28.

The Collections and Support Section in Anchorage is pleased to welcome attorneys **Nelleene Boothby** and **Angie Richards**. **AAG Boothby** brings a wealth of civil experience. She was formerly in private practice with Guess & Rudd for 13 years with a focus on complex insurance litigation. **AAG Richards** graduated from Cumberland Law School in Georgia in May 2006 and passed the Alaska Bar this fall. Prior to attending law school, Angie was a restaurateur; she brings experience as a former business owner to the section.

Administrative Clerk **Gail Byers** of the Collections & Support Section accepted a position as a LOA I in the Environmental Section.

Robin Fowler joined the Fairbanks Child Protection Section on November 27th. AAG Fowler is filling a half-time position and will handle adult protection, civil commitment, CINA and Medicaid cases.

CIVIL DIVISION

Child Protection

New CINA cases based upon allegations in OCS petitions:

OCS took custody of four children after learning that a man still on probation following a murder conviction for killing his wife had been engaged in domestic violence with his current partner. His girlfriend acknowledged ongoing abuse in the presence of her children as well as the man's children. Although originally the mother agreed to protect her children from this man, she changed her mind. Therefore, OCS moved for custody of the children.

After a very long history of reports of concern about the children and attempts to provide services to a mother, OCS ultimately took custody of some children after learning school officials were in fear for the children's lives. The mother had severe mental illness issues. She exhibited bizarre behavior, anxiety, mood swings, paranoia, and an inability to understand or remember events or directions. The home environment was unsafe for the children with the family car filled to the ceiling with debris and garbage. The children suffered severe behavioral problems as a result of living in this environment. Despite numerous efforts to work with the family, OCS finally felt compelled to assume custody.

An adoptive mother of children who had been in state custody asked for the children to be removed because she could no longer care for them. The children had very challenging behaviors, and it was reported that the adoptive mother had physically abused the children.

A child was taken into custody because the parents failed to bring the child for surgery scheduled for a significantly dislocated hip. Failure to have the surgery would likely have caused a fractured femur and the necessity for a total hip replacement. After the state became involved, the parents did consent to the surgery.

Two parents left their ill 5-month-old child with an acquaintance so they could go out drinking. The parents did not return for the sick child, who had to be taken to the emergency room where she was diagnosed with bronchitis. OCS had been involved previously with the mother when she had been observed intoxicated and walking down a road with the then 3-months-old infant. The mother was charged with child endangerment but did not follow through with her promise to get assessed for substance abuse.

OCS was asked to remove a 14-year-old girl from her mother's home. The mother refused to care for her or to allow her to remain in the home. The mother has an extensive history with OCS with this child and other children.

A child reported his mother hit him with a computer cord because he had misbehaved in school. The social worker observed and photographed severe bruising from the child's upper rib cage to his knees. He was afraid to return home.

Anchorage airport police responded to a report that a mother was intoxicated while caring for a 6-year-old child. She had a BAC of .329. OCS took custody of the child and placed her with a relative.

Parents left their two and one-half-year-old child at risk of physical harm by leaving her unsupervised. She was found asleep and alone locked in a hotel room by a police officer. Apparently the mother had left the child with the child's father, against whom she had filed numerous reports of domestic violence. He was intoxicated with a BAC content of .279 and climbed out of the hotel window. OCS had multiple reports regarding the mother's abuse of alcohol dating back to 1992.

Litigation

Tanana v. State. The state is currently defending *Tanana et. al. v. State* in the Anchorage Superior Court where other Alaska Native villages are seeking a declaration that they have the inherent authority to initiate child protection cases. Briefing has been completed now, and AAG Dan Branch will participate in oral argument on December 1 before Judge Sen Tan.

Other Issues

In Fairbanks, AAG Gayle Garrigues is handling a CINA case in which a child's sibling died as a result of neglect. Because of her extensive knowledge of the case, the DA's office in Fairbanks asked that she handle the criminal prosecution of the parents. After the parents were indicted, the mother's attorney (who represents her in both the CINA and criminal cases) filed a motion to disqualify AAG Garrigues from prosecuting the criminal case on the grounds of an alleged conflict. Briefing has been completed and we are awaiting a decision. AAG Michael

McLaughlin from OSPA assisted AAG Garrigues by reviewing and editing her opposition. Both the criminal division and the civil division are very interested in the decision in this case in view of the long-standing policy of having attorneys in some smaller areas handle both criminal and CINA cases.

Other Activities

AAG Jan Rutherford continues to participate in a workgroup formed by the Rural Justice Commission. The mission of this workgroup is to recommend language for a model MOU between federal, state and tribal entities concerning the disposition of ICWA cases in the State of Alaska.

Commercial and Fair Business

Consumer Protection/Anti-Trust

State Enters AVC's With Two Auto Dealers. The Consumer Protection Unit entered into "Assurance of Voluntary Compliance" agreements with two auto dealers in October. The first was with NYE Ford who used illegal invoice pricing advertisements in the Anchorage Daily News. NYE agreed to injunctive relief and a suspended \$10,000 civil fine. The second was against Morrison Auto Group who used illegal price comparison advertisements in the Anchorage Daily News, and also agreed to injunctive relief and a suspended \$10,000 civil penalty.

Regulatory Commission of Alaska

On November 17, AAG Rob Royce argued an administrative appeal of a Final Order issued by the Regulatory Commission of Alaska (RCA). The appeal was filed by General Communications, Inc. ("GCI") under the federal Telecommunications Act of 1996. GCI contended the RCA violated the Act in setting the final rates and terms of interconnection that Alaska Communication Systems (ACS) could charge GCI for access to ACS's network in order for GCI to compete in the local exchange telephone carrier market in Anchorage. ACS cross-appealed contending the RCA violated the Act by failing to determine the final rates within a reasonable time and by failing to impose sufficient

interim relief to ACS. On November 21, U.S. District Court Judge Ralph R. Beistline issued an Order affirming the decisions of the RCA in all respects. All of GCI's and ACS's challenges to the RCA's decisions were therefore dismissed by the court.

Department of Revenue

In re Consolidated Freight Company et al. U.S. Bankruptcy Court for the Central District of California, RS 02-24284 Consolidated Freight Company Inc. (CF) filed a chapter 11 bankruptcy petition in California on September 3, 2002. The Alaska Department of Revenue filed a claim in the case for pre-petition corporate income taxes and interest in the amount of \$51,206. The bankruptcy trustee questioned whether the tax was owed by CF or another taxpayer. The AAG assigned the case convinced the trustee of CF's liability for the tax debt. In November, the trustee and the State of Alaska entered to a stipulation that requires the trustee to pay Alaska \$51,206 in pre-petitioned taxes and interest along with post-petition interest for a total payment of \$58,050. Payment is to be within ten days after expiration of the ten day protest period provided by the Bankruptcy Code. AAG Dan Branch represents the state in the case.

Division of Corporations, Business and Professional Licensing

Hearings

AAG David Brower represented the Division of Corporations, Business and Professional Licensing at a hearing involving the denial of a collection agency operator license based on the applicant's conviction for possession of cocaine in 1992. The applicant answered "no" to the question had he ever been convicted of a crime. The applicant's conviction took place in Florida, a state that has a disposition called "adjudication withheld." There was some confusion whether that disposition is considered a conviction, but the Florida Supreme Court cleared that up in 2005 by holding in a capital case that "adjudication withheld" did not mean that the person was not convicted.

The applicant testified at the hearing he recalls being told by either his lawyer or a probation officer that once he completed his probation, the conviction would not remain in his record. However, like the advice given to some with an Alaska SIS and set-aside conviction, it was wrong. His conviction showed up on the FBI rap sheet after he submitted his fingerprints. The issue of the conviction itself must be considered because the relevant statute requires that the applicant not have been convicted of a felony or a crime involving moral turpitude. However, the Commissioner may waive this requirement for "good cause." The hearing officer asked for briefing on what constitutes good cause and the section is awaiting a proposed decision.

Decisions

Craig Lightle v. SOA, Real Estate Commission.

AAG Karen Hawkins received a favorable decision from the Alaska Supreme Court in an appeal that she briefed and argued before the Court. The decision affirmed an order of the Real Estate Commission granting a claimant recovery from the Real Estate Surety Fund. The surety fund is a state administered fund created by statute to compensate individuals who suffer loss in real estate transactions due to fraud.

In this matter, the individual filing a claim against the fund alleged Lightle had engaged in fraudulent misrepresentation in the sale of a home and his actions had caused her to suffer damages by prompting her to cancel an existing lease. After hearing, the Real Estate Commission found Lightle's misrepresentations were intentional and material to the real estate transaction and awarded the claimant \$1200 in damages to compensate her for the losses she incurred by prematurely cancelling her lease. Lightle appealed to the superior court and after losing before the superior court, appealed to the Alaska Supreme Court. On appeal, Lightle argued the evidence failed to support the commission's finding of intentional misrepresentation.

In its decision, the Court found the record contained substantial evidence Lightle misrepresented the home's availability by inaccurately describing the home in the Anchorage Multiple Listing Service as an "active listing"; by prematurely telling the claimant that an

originally accepted offer had been rescinded; and by incorrectly assuring the claimant her own offer had been accepted and "the house is yours." The Court concluded that the record supported the commission's finding of a fraudulent misrepresentation because Lightle knew these representations to be untrue or unfounded when he made them, yet he intended or expected that claimant would rely on them. After eight years, the claimant has finally been compensated for her efforts in exposing Lightle's intentional misrepresentations.

In the Matter of Renee Kimble. During November ALJ Chris Kennedy issued a proposed decision recommending that the Board of Nursing deny the license application of Renee Kimble. This was Kimble's sixth license application over a 14-year period. The Board denied Kimble's initial application because it contained numerous false statements, including forged credentials and references. The Board also found Kimble had obtained employment at an Anchorage hospital based on false information on her job application. In all subsequent applications, the Board decided the severity of the initial fraudulent misconduct, and Kimble's failure to prove she has remedied underlying factors, justified continued denial of licensure.

After an administrative hearing, ALJ Kennedy concluded Kimble had "failed to demonstrate she is fully rehabilitated" from her misconduct, and recommended this latest application be denied. The Board will consider the recommended decision at its next meeting in Anchorage. AAG Gayle Horetski handled this case (and four of Kimble's prior license denial cases).

Environmental

The Department of Environmental Conservation filed a response brief in an administrative appeal filed by pro se litigant Tom Lakosh challenging the Commissioner's denial of several hearing requests made by Mr. Lakosh pertaining to Prince William Sound tanker contingency plans. The hearing denials were based on failure to state clear and concise issues of material fact, failure to state the requestor's interest in the Commission decisions at issue and the effect of such decisions on the

requestor, and in certain instances the lack of a final decision giving rise to a hearing right. Because the decisions at issue were made more than five years ago and the underlying contingency plan has in the interim been superceded, mootness, the public interest exception to the mootness doctrine, and available remedies were also briefed. AAG Rita Lovett is representing DEC.

Human Services

Litigation Update

In Baker, the court ruled in the state's favor and denied the motion for preliminary injunction and temporary restraining order. This was a huge win, albeit short lived as the Northern Justice Project has filed for a second TRO on due process grounds. In addition, the Northern Justice Project is seeking reconsideration of the court's order denying the first TRO request.

Two new complaints and an appeal have also been filed. The Northern Justice Program filed a new class action for injunctive and declaratory relief related to the older Alaskan waiver program. The section also received a complaint for injunctive and declaratory relief related to the Mat-Su ambulatory surgery center certificate of need. Finally, the section received another appeal on what constitutes an "Independent Diagnostic Testing Facility."

Medicaid

Subrogation/Liens

During the month of November AAG Tim Twomey and section staff Kathey Virgin and Shelby King collected \$58,153.94 after resolving 24 cases. Payment of an additional \$125,000 is awaited in connection with the prior resolution of four other matters. Thirty new Medicaid lien/reimbursement matters were opened during November. Approximately 20 matters are under review where Medicaid liens may be asserted. In addition, a substantial mailing of "trauma questionnaires" took place in mid-November. It is expected within the next 30-60 days, the responses from Medicaid

recipients will provide information necessary to generate additional case leads.

During the calendar year 2006, \$1,681,836.54 has been collected. Presently the subrogation team has an "inventory" of 622 open matters and 538 closed matters.

Audits

AAG Rebecca Polizzotto continues to work on preparing the administrative records in the five appeals that have been filed in superior court related to medicaid audits. Paralegal Ann Marie Palumbo is helping with litigation support.

Licensing

AAG Rebecca Polizzotto continues her licensing training with a two-day training at the end of this month for day care workers. She continues to receive rave reviews from her clients.

Labor and State Affairs

Elections

On November 17 the Alaska Supreme Court issued two decisions concerning elections:

Green Party v. State, Division of Elections. The Court upheld the test for achieving official status as a political party in AS 15.60.010(21) (amended in 2004 after this dispute arose). To maintain or establish recognition as a political party, a party had to poll at least three percent of the votes in the previous governor's race or an equivalent number of voters had to register showing affiliation with the party. The Green Party's objection was to the choice of the governor's race as the touchstone office to demonstrate support. The Green Party argued that winning three percent of the vote in an election for any statewide office should be sufficient. The Court rejected the argument, instead deferring to the legislature's reasonable exercise of its authority to establish standards for political party status.

Kohlhaas v. State, Office of Lieutenant Governor.

The Court upheld the lieutenant governor's decision to deny certification of an initiative application for a measure calling for Alaska's secession from the United States on the basis that the measure was clearly unconstitutional under controlling authority. The Court rejected the sponsor's argument the Court could sever the unconstitutional part of the measure and allow the second section, directing the state to pursue the enablement of secession, to proceed. AAG Sarah Felix represented the state in both cases.

Labor

Associated Builders and Contractors (ABC) v. State, Department of Labor and Workforce Development. On November 15, Judge Rindner denied the motion of ABC (an association of general and specialty construction contractors) for a preliminary injunction to prohibit the Department of Labor and Workforce Development from awarding STEP grant funds to nonprofit union-affiliated training programs.

The legislature created the STEP program to reduce claims for unemployment benefits by fostering new jobs and increasing training opportunities. The program is administered by the department, which awards grants to qualified organizations. The department may *not* pay funds to an organization, however, if the grant would displace money already available through existing training programs.

ABC argued this mandate was violated when the department paid funds to unions with existing training programs. The court disagreed, reasoning the mandate was not violated if funds were used to supplement or leverage existing funds. Funds could be used, for example, to expand a program or to provide access to STEP eligible trainees.

Concluding that ABC failed to make a clear showing of probable success on the merits, the court denied the motion. AAG Larry McKinstry represented the department.

Motor Vehicles

On November 7, the Juneau Superior Court affirmed the Department of Motor Vehicles' administrative revocation of Robert Henricksen's driver's license. Henricksen had contested the revocation, arguing that the forest service officer who initiated the contact with him lacked the necessary reasonable suspicion to justify an investigatory stop. At issue in the case was the meaning of footnote 21 in *Nevers v. State*. The general holding of *Nevers* is that the exclusionary rule does not apply in license revocation hearings, but footnote 21 carved out an exception for cases "where a Fourth Amendment violation stems from a lack of probable cause for a DWI arrest."

Henricksen argued that whether an officer had probable cause for an arrest necessarily included the prerequisite of a valid initial investigatory stop. Judge Collins rejected this analysis based on the Supreme Court's citation of numerous cases involving challenges to an initial stop as examples of the rule it was adopting when it held that the exclusionary rule does not apply in license revocation hearings. AAG Margaret Paton-Walsh handled this matter for the state.

Personnel

Baseden v. State. On October 20, Judge Weeks granted the state's motion to dismiss this suit in which a former state employee challenged the constitutionality of a law that was adopted after his departure from state service – AS 39.25.150(7) (permitting state to make agreements with unions to extend employees' probationary periods). Judge Weeks agreed the former employee lacked standing and dismissed the case. AAG Bill Milks filed the motion for the state.

Benavides v. State. On November 17 the Alaska Supreme Court rejected a legislative employee's claim that he and other legislative employees are entitled to per diem for each day they spend in Juneau during a legislative session. The employee filed a superior court suit in 2002, seeking session per diem for himself and every other legislative employee who relocated to Juneau for any legislative session since 1993. The employee's

lawyer estimated the claims totaled more than \$35 million. The superior court required the employee to present his claim through the Department of Administration's claims procedures, the Department of Administration denied his claim, and the superior and supreme courts upheld that denial on appeal. The case was handled by AAG Dave Jones (now a member of the Opinions, Appeals, and Ethics Section).

Retirement and Benefits

James Talcott v. Administrator, Public Employees' Retirement System. The superior court rejected Mr. Talcott's late-filed appeal, affirming the Administrator's decision to deny his application for occupational disability benefits. AAG Sarah Felix represented the administrator.

Also this month the administrator (represented by AAG Toby Steinberger) received a favorable proposed decision in an appeal from the denial of occupational disability coverage under PERS. For many years, the employee had back pain and in fact had had back surgery in 2000. One year after the surgery and while the employee was working, the employee claimed to have again hurt his back, resulting in a disabling condition. The hearing officer relied upon the absence of objective evidence of the condition and an opinion from an independent medical examination to conclude that the permanent condition did not prevent work at a desk job.

Special thanks to AAGs Deborah Behr, Virginia Ragle, Joanne Grace, Dave Jones, and Craig Tillery for their support and assistance during the special legislative session and on the petition for review concerning employment-related benefits for same-sex domestic partners.

Legislation Regulations

During November 2006, the Legislation and Regulations Section spent an active month reviewing and processing legislation and amendments for the

fourth special session of the Alaska Legislature. The legislature adjourned November 20, 2006.

Regulations projects reviewed in the section included: (1) Department of Environmental Conservation (water quality standards and natural conditions; air quality emission fees; food code; air quality inspection and maintenance requirements for motor vehicles; oil spills); (2) Department of Administration (applicability period for benefits for same-sex partners of members of state retirement systems); (3) Department of Health and Social Services (birth defects registry and fee schedules); (4) Department of Commerce, Community, and Economic Development (occupational licensing fees; reorganization of corporations functions); (5) Board of Dental Examiners (dental specialty and courtesy licenses); (6) State Medical Board (inactive physician licenses); (7) Board of Barbers and Hairdressers (applications; trainees; apprentices); (8) Board of Fisheries (corrections to reorganization of sport fishing regulations for Cook Inlet Region; Aleutian Islands District Pacific Cod Management Plan); (9) Department of Fish and Game (shooting range fees); (10) Department of Education and Early Development (public school performance incentive program); (11) Department of Labor and Workforce Development (Alaska Vocational Technical Center tuition rates and fees); (12) Alaska Oil and Gas Commission (permit to drill requirements and blowout retention equipment); and (13) Department of Transportation and Public Facilities (statewide transportation improvement program).

The section also prepared several revisor's memorandum to make technical changes in the regulations.

Natural Resources

November Was A Busy Month For Federal Subsistence Issues. On November 6 the state filed its reply brief in the consolidated Federal Reserved Water Rights litigation (*Katie John v. U.S.*); the Natural Resources Section is assisting outside counsel, Bill Horn, with this matter. The section provided advice to the Alaska Department

of Fish & Game regarding comments on federal subsistence proposals and special action requests, including those dealing with new and expanded subsistence fisheries in Tustumena Lake and in the Upper Kenai River. The section also provided advice to the department regarding comments on changes to the federal regional advisory council structure.

Gearing Up For Endangered Species Issues.

Senior AAG Nelson and AAG Daugherty attended a continuing legal education course focused on Endangered Species Act issues on November 16 and 17 in Washington D.C. The course also addressed invasive species issues. The Division of Commercial Fisheries and the Division of Sport Fish within ADF&G each paid for sending an attorney to the training because the agency has been facing an increasing workload of endangered species issues.

CDFU Lawsuit Dismissed. On November 21, the gillnet and setnet divisions of Cordova District Fishermen United, and the Prince William Sound Setnet Association filed a stipulation for dismissal of their lawsuit challenging the Board of Fisheries Prince William Sound Management and Salmon Enhancement Allocation Plan and ADF&G's implementation of the plan.

A stipulation for dismissal of another portion of the initial lawsuit, challenging the Copper River King Salmon Management Plan had already been filed in late May following a ruling by Judge Stowers denying plaintiffs' motion for a preliminary injunction.

The case, filed in April of this year, was based largely on allegations of an inadequate record from a board meeting in December of 2005 where recording equipment malfunctioned resulting in numerous gaps in the transcript. With the help of subsistence users and commercial seiners who intervened, we successfully opposed the preliminary injunction motion based on the available record which included extensive log notes prepared by ADF&G's Board Support Section.

The board also met in May of 2006 and adopted findings to support the challenged regulations. At its October 2006 workshop, the board reviewed ADF&G's implementation of the Prince William

Sound Management and Salmon Enhancement Allocation Plan and decided not to support changes advocated by the Plaintiffs. AAG Daugherty represented the board and ADF&G in this matter.

Lynn Canal Conservation v. Department of Natural Resources. In this administrative appeal, various environmental groups have appealed the commercial use permit issued by the Department of Natural Resources for the operation of jet boat sightseeing tours in the Chilkat Bald Eagle Preserve. The plaintiffs' opposition is based primarily on the alleged impact on salmon habitat. On November 16, the superior court issued an order granting the state's motion to dismiss the Alaska Department of Fish and Game as an improper party.

During the DNR permitting process, DNR consults with ADF&G and gives consideration to ADF&G recommendations related to fish and wildlife populations. However, DNR makes all final decisions regarding the issuance of the permit.

The court agreed with the state's position that a consultative role of a state agency does not provide a basis for direct judicial review of that agency's recommendations. AAGs Tom Lenhart and John Baker represent the state.

Natural Resources Defense Council v. United States Forest Service. In late October, environmental plaintiffs in this Tongass timber management case filed a Notice of Appeal in the Ninth Circuit Court of Appeals. This appeal follows the order of Judge Singleton in the District Court in which the plaintiff's motion for broad permanent injunctions on Tongass Timber sales was only partially granted. Judge Singleton's order was entered in three related District Court cases against the U.S. Forest Service. The state is an intervenor-defendant in two of these cases.

At the heart of all of these Tongass cases is the issue of "Bridge Timber Sales". At stake is the location and volume of federal timber sales that will be allowed to go forward until such time as a new Tongass Land Management Plan (TLMP) can be implemented. Subsequent to the invalidation of the 1997 TLMP in 2005, the matter was remanded to the District Court to determine the

remedy. The revised TLMP is currently scheduled for publication in August of 2007. The parties actively continue to seek a settlement on Bridge Timber issues. AAG Tom Lenhart represents the state in these cases.

May v. CFEC. In late November, AAG Vanessa Lamantia filed the state's appellee's brief in this appeal to the Alaska Supreme Court of a CFEC decision denying Mr. May a permit in the Southeastern Roe Herring Purse Seine fishery. The permit was denied because CFEC determined Mr. May was not eligible to apply and he could not qualify for sufficient points if he was eligible.

Predator Control Litigation. The Defenders of Wildlife, Alaska Wildlife Alliance, and Sierra Club sued in August to halt the state's ongoing predator control programs. This is the second such suit. Late on Friday, November 17, the plaintiffs filed a motion for a preliminary injunction. They argue the Board of Game relied on invalid regulations and failed to strictly follow the controlling statutes in adopting the current predator control plans. The state, represented by AAG Kevin Saxby, filed its opposition on Monday, Nov. 27. A decision should be ripe in early December.

Opinions, Appeals and Ethics

Ethics

The section received two new complaints during the month of November, reviewed the quarterly ethics reports from all agencies and boards, and prepared the public summary for the Personnel Board. AAG Judy Bockmon continues to review and update training and educational materials. On November 15, AAGS Judy Bockmon and Dave Jones briefed members of Governor-Elect Palin's transition team on their obligations under the Executive Branch Ethics Act as temporary employees of the state.

Appeals/Litigation

Denardo v. Stowers et al. This case is the fifteenth recent case Mr. Denardo has filed against

a superior court judge. Because all of the alleged actions about which Mr. DeNardo complains were judicial acts taken within the court's jurisdiction, Judge Stowers filed a motion to dismiss on the grounds of absolute judicial immunity. The motion also requests that the court take action to control Mr. DeNardo's repeated and frivolous filings against Alaska judges and impose a pre-filing screening process for him. AAG Laura Bottger is representing Judge Stowers.

AKPIRG v. State. The state filed its appellee brief in the Alaska Supreme Court in this case where AKPIRG challenges the constitutionality of the workers' compensation appeals commission. AKPIRG argues the commission is an illegal court, but as the state demonstrates, the commission is a quasi-judicial agency whose creation is expressly provided for in the constitution. Because the Supreme Court provides judicial review of the commission's decisions, there is no encroachment on the judicial branch and no separation of powers or unified judiciary violation. AAGs Laura Bottger and Paul Lyle represent the state in this appeal.

State v. Doherty. AAG Megan Webb filed the opening brief on behalf of an OCS social worker in this tort case involving allegations of wrongdoing in a child-in-need-of-aid case. The Supreme Court accepted two petitions for review in the case. The first challenged the trial court's ruling the social worker was collaterally estopped from litigating findings of fact entered in the CINA case in relation to the termination of parental rights trial, arguing that since the social worker was sued in her personal capacity she was not in privity with a party to the CINA case.

The second challenged the trial court's ruling denying a motion to dismiss several section 1983 claims since the trial court applied state law rather than federal law.

Alaska Dental Society and American Dental Association v. Alaska Native Tribal Health Consortium. The state responded to the plaintiffs' first set of discovery requests and filed a motion for summary judgment as to all counts. The plaintiffs allege that the Alaska Attorney General has a mandatory, nondiscretionary duty to enforce

the state Dental Practices Act against dental health aides licensed by the federal government to provide dental services to Alaska Natives in village clinics. The plaintiffs claim the services dental health aides are providing can only be provided by licensed dentists. The dentists also claim they are being denied equal protection because they must pay licensing fees to the state while dental health aides do not. In its summary judgment motion, the state argues federal law preempts state law under the circumstances of this case. AAGs Mike Hotchkin and Paul Lyle represent the state.

C.N. v. State. The state Office of Children's Services (OCS) has recently begun pilot implementation of the Team Decision Making program, which was developed by the Annie E. Casey Foundation. The program provides that before OCS changes the placement of a child in state custody, a meeting is held at which parents, foster parents, other relatives, social workers, guardians ad litem, and other persons with a stake in the child's welfare provide input and share ideas with the OCS social worker who ultimately is responsible for determining the child's placement. Participation by all participants except the social worker is on a voluntary basis.

Under the former system, the social worker unilaterally made placement decisions without any formal process to obtain input from interested persons. After one such meeting was held on an emergency basis on a Friday evening, a parent's attorney challenged the voluntary nature of the program, claiming that due process considerations prohibited holding such a meeting without both parents' counsel being present.

Following briefing in which his claim was opposed by OCS, the state public defender (which provides indigent parents with representation) and the state public advocate (which provides guardians ad litem for children and also provides indigent parents with representation) the superior court dismissed his claim in an order which he petitioned the Supreme Court to review. The state opposes his petition, arguing that because team decision making meetings are not required by law, because they are not judicial proceedings, and because judicial review of a decision made after such a meeting is readily

available to an aggrieved parent, due process allows such meetings to be held with voluntary participation of interested persons and their attorneys. The state also argues this particular parent's challenge is not ripe, as both parents' attorneys actually attended the meeting, which resulted in a decision that favored the parents. AAG Mike Hotchkin represents the state.

Clugston v. Smith. AAG Megan Webb filed a motion for summary affirmance in this case asking the Ninth Circuit to affirm the district court's order of dismissal, arguing that briefing was not necessary since the appeal lacked substance. Mr. Clugston had filed a lawsuit in federal district court against a state court judge, several CSSD employees, and an AAG who represented CSSD.

He sought reversal of several state court orders in a civil custody/child support case and asked the federal district court to impeach the state court judge, disbar the AAG, and terminate the employment of the CSSD employees. The district court dismissed the case under the Rooker-Feldman doctrine and judicial immunity, concluded the lawsuit was frivolous, and found an appeal of that order would be brought in bad faith.

Regulatory Affairs & Public Advocacy (RAPA)

Pre-filed Testimony

U-06-107, Fairbanks Natural Gas/Enstar.

Fairbanks Natural Gas LLC (FNG) negotiated an emergency, short-term (21-month) gas supply special contract with Enstar due to the failure of Aurora Gas, FNG's regular supplier, to continue supplying natural gas after October 1, 2006. FNG serves gas customers in the Fairbanks area with gas supply from the Cook Inlet. The commission approved the special contract on an interim/refundable basis but posed various issues related to Enstar's obligation to serve FNG, FNG's right to pay Enstar's WACOG gas price, and FNG's unregulated status.

On November 17 RAPA filed the direct testimony of staff economist, Cristina Klein, addressing the

question of whether FNG should be economically regulated by the RCA. The commission previously exempted FNG from regulation based upon a finding that a sufficiently competitive energy market existed in the Fairbanks area. The pre-filed RAPA testimony identified two factors that suggest (but do not as yet establish) a need for regulation: 1) the number of captive FNG customers who cannot easily switch to an alternative heating source because of the cost of conversion; and 2) the increased cost of home heating fuel, the primary alternate fuel for FNG customers, compared to the cost of natural gas.

The U.S. Department of Defense has moved to intervene in the case and Representative Jay Ramras has filed consumer input testimony regarding FNG regulation. A hearing is scheduled for December 6, 2006.

Moot Case

U-06-177, MCI Calling Card Increase Withdrawn.

On October 20, 2006, the RCA opened a proceeding to investigate issues related to MCI's proposed intrastate long-distance, pre-paid calling card increase. RAPA filed notice of consideration that it would await review of MCI's formal response to the issues raised by the commission and a scheduled consumer input hearing before the Attorney General would decide whether to participate in the matter. Before the scheduled consumer input hearing, MCI filed a motion to vacate and close the docket because of the unilateral withdrawal of its proposed rate increase. The commission has yet to act on the docket closure request.

NARUC Presentation

R-06-06, Missoula Plan Comments. This docket was opened by the RCA to consider a proposed reform, the Missoula Plan, to the national inter-carrier compensation system by which telecommunications carriers compensate one another for access to each others' networks to originate and terminate long-distance calls. The RCA sought public comments on the Missoula Plan for the purpose of developing and filing its own formal comments about the plan with the Federal Communications Commission (FCC).

RAPA sponsored the extensive comments on the Missoula Plan filed with the FCC by the National Association of State Utility Consumer Advocates (NASUCA), an organization of public advocates throughout the U.S. Alaska's Attorney General was admitted as a full member of NASUCA shortly after the authority for public advocacy was transferred to the Attorney General (and RAPA was founded).

RAPA facilitated a presentation by one of the authors of the NASUCA Comments to the FCC, B.J. Gregg of the W. Virginia PSC, at an RCA hearing held on November 7-8 for the purpose of making the best information available to the commission as it seeks to formulate its own comments.

Torts & Workers' Compensation

Section Defends In Two Jury Trials: Wins In Both.

After a lengthy jury trial in Kenai, the jury returned a defense verdict in favor of an Alaska State Trooper sued for excessive force during an arrest. The plaintiff claimed the trooper had used excessive force when handcuffing him during a routine warrant arrest. Plaintiff sought over one million dollars in damages and alleged permanent injuries from the arrest. The jury rejected plaintiff's claims of excessive force. The case was defended at trial by AAGs Stephanie Moore and Dana Burke, with long hours of assistance both before and during trial by Kim Halstead, the paralegal assigned to this case.

An Anchorage jury returned a verdict in favor of the Department of Corrections in a suit brought by a former inmate at the Spring Creek Correctional Center who claimed injuries from an un-witnessed slip and fall. The plaintiff, representing himself at trial, sought two million dollars in damages. After deliberating for a little under an hour, the jury found that Corrections was not negligent. The case was defended at trial by AAG Rebecca Cain, with assistance by AAG Ruth Botstein and paralegal Patricia Anderson.

Federal Court Grants Summary Judgment In Favor of State Troopers. Summary judgment was granted in favor of two Alaska State Troopers who were sued in U.S. District Court. The case arose out of a dispute between landowners and the Golden Valley Electric crews building the Intertie. The landowner had threatened crew members with a gun alleging they were trespassing on his land. The troopers responded to the report of the gun threat and the landowner was arrested. On summary judgment, Judge Beistline found the troopers' actions were objectively reasonable under the circumstances and there was no excessive force used. The case was originally handled by AAG Venable Vermont; AAG Dave Floerchinger completed the briefing and took over the case after AAG Vermont's retirement.

Motion For Summary Judgment Filed In Maritime Case. A motion for summary judgment was filed in one of the remaining Jones Act cases being handled in the section (AS 09.50.250(3) now provides workers compensation benefits to injured state employed seamen for workplace injuries in lieu of maritime lawsuits). The plaintiff in the case, a licensed engineer working aboard AMHS ferries, claims he developed sleep disorders as a result of working the regularly assigned watch standing schedule of alternating periods of six hours on duty and six hours off duty. The state's motion argues that his claims are not compensable under either the Jones Act or the maritime doctrine of unseaworthiness. AAG Susan Cox in Juneau prepared and filed the motion.

Response To Petition For Review Filed On Issue Of Recreational Use Immunity. AAG Stephanie Galbraith Moore opposed a petition for review filed by plaintiffs in the *Pearson* wrongful death lawsuit. Late in the summer both parties moved for summary judgment. The state argued that plaintiffs' claims are barred by AS 09.65.200 (Alaska's Recreational Use Statute). Judge Michalski granted in part the state's motion finding that all negligence claims are barred; reserving for trial issues of gross negligence (which is not immunized in AS 09.65.200). Plaintiffs filed a petition for review with the Alaska Supreme Court challenging the trial court's grant of partial summary judgment to the state.

The case involves a fisherman who was fishing with his son in Bird Creek, south of Anchorage, in June of 2000. The fisherman drowned after losing his grasp on a wire cable that crossed the creek. The state argued in its summary judgment motion the claim was barred because the death resulted from "a natural condition of the unimproved portion of the land or the person entered onto the land for recreation" under AS 09.65.200.

Transportation

Condemnation Concludes. AAG Joan Wilson settled a condemnation case with the Fairbanks Drama Association and Fairbanks Children's Theater. The condemnation involved land along Second Avenue in Fairbanks. The land was obtained to allow the construction of highway improvements.

Transportation Attorney Assists Military Serviceman. AAG Gary Gantz provided pro bono representation to a member of the military serving in Afghanistan. Affordable Loan Co. pursued the serviceman in violation of the Soldier's and Sailor's Civil Relief Act. AAG Gantz obtained relief for the serviceman as well as an attorney's fee award for the Alaska pro bono program.

CRIMINAL DIVISION

Anchorage DAO

Russell Hanks sentenced to eight years in jail for attempted sexual abuse of seven-year-old girl.

On October 11, 2005, a seven-year-old girl was asleep in bed in a rooming house in Fairview. She and her mother were staying there until their house, which was under construction, was finished. The mother was drinking with two other men from the rooming house and then had sex with one of them in the same bed the seven-year-old was in. The daughter was awakened by the sound of the two; the man then sexually abused the girl.

The next morning, the girl did not want to go to school. When her mother questioned her, she explained what had occurred to her the night before. The mother took her to the hospital and the hospital called police.

After talking to mother and daughter, police went to the rooming house and found the second of the two men with whom the mother had been drinking. That man told police the other man, the defendant, Russell Hanks, had admitted having sex with the mother while the daughter was in bed. Police located Russell Hanks and interviewed him; he admitted having sex with the daughter during the course of the sex with the mother.

Hanks plead to attempted sexual abuse of a minor in the first degree under a plea agreement that he be sentenced to 12 years, with four years suspended, eight to be served. He is to be placed on probation for ten years. On November 9, Judge John Suddock imposed the agreed-upon sentence, eight years to serve. ADA Alan Goodwin handled the case for the state.

Steve Lapitre convicted of second-degree murder in Chilkoot Charlie's shooting. On August 11, 2005, two couples were on the dance floor at Chilkoot Charlie's. The two couples were competing with each other in a dance contest, without having known each other or having agreed to a contest beforehand. With no harsh words having been exchanged, one couple, consisting of the defendant Steve Lapitre and his female partner, left the dance floor. As he left, Lapitre got in an argument with another patron in Chilkoot's and security officers escorted him out. He was escorted out just as the other couple, consisting of the victim Kylan Brown and his female partner, were leaving the bar. Lapitre took the occasion to call Kylan Brown a derogatory name. Brown did not hear the words spoken, but his female partner did and she told him what Lapitre had said. Brown averred to "finish this."

Both couples went to their vehicles in Chilkoot's parking lot. As Brown was about to leave, he had his female partner stop the car. He took off his shirt and raised his arms in a "come-on" gesture, without a weapon in his hands. The female partner then saw Lapitre approach Brown with a gun in his hand and shoot Brown. Brown died in Chilkoot's parking lot. The bullet entered the front

of Brown's face and exited through the top of his skull.

A cab driver saw the person who fired run to a Dodge Neon and leave. The cab driver followed the Neon and reported the description of the vehicle and the place he last saw it to police. About 25 minutes after the shooting, police stopped the Dodge Neon, with the female dance partner driving and the defendant Lapitre in the passenger seat. As the officer stopped the vehicle, he saw Lapitre take off his shirt and put it under the seat. Once recovered, the shirt matched the one Lapitre was shown wearing in a security tape recording of Chilkoot's security officers escorting Lapitre out of the bar. Police also found the gun in the glove box of the Neon.

Indicted for both first-degree and second-degree murder, Lapitre went to trial beginning on November 7. The case went to the jury on November 17. A week later, on November 24, the jury returned a verdict of guilty on the charge of second-degree murder.

The trial was a tough one. Brown's female dance partner, who saw Lapitre run up to him gun-in-hand, died of a drug overdose about a month after she had testified at the grand jury, so the defense was "accident." The defendant claimed he started to fight with Brown, the gun dropped from the holster in which he was carrying it, the two grabbed for it, and it went off accidentally. ADA Sharon Illsley tried the case for the state.

Naknek woman convicted of criminally negligent homicide for rolling her car, killing her passenger.

On May 30, 2006, Emma Alto, age 20, was driving drunk along the Alaska Peninsula Highway between King Salmon and Naknek. She had one passenger in the front passenger seat and two in the rear seats. As she tuned the radio, she let the vehicle drift off the right-hand side of the road. Tire marks in the dirt of the shoulder showed that both tires had gotten off the pavement. The front seat passenger, seeing the vehicle drifting off the road, grabbed the wheel and tried to steer the vehicle back onto the road. But Alto took over, overcorrected, and steered the vehicle off the opposite side of the road and down

an embankment. The vehicle rolled over. One of the back seat passengers was thrown out of the vehicle and the vehicle rolled over her, killing her.

In a six-day trial in Naknek, ADA Ben Hofmeister convicted Emma Alto of criminally negligent homicide in the death of the passenger and DUI.

Bethel DAO

While Bethel ADA Dawson Williams was on leave, his brother Regan from the Rural Prosecution Unit came to Bethel and began a felony DUI trial, even though the investigating officer had been sent to Iraq. Trial was interrupted with the Bethel judge allowing a civil case to take priority. This left everyone surprised. The case is set to resume in December.

The month was fairly typical as far as the in-flow of felonies. Sexual assault cases headed the list, closely followed by felony assaults and felony DUI's. Local grand jurors were disappointed crime did not take a break for Thanksgiving. They attended grand jury on the Friday after Thanksgiving and had a full day of hearings, bringing in an attempted murder indictment along with other true bills.

Fairbanks DAO

The Fairbanks DAO has been very active. The misdemeanor unit has been doing multiple trials on a weekly basis and the felony unit has been busy with a number of trials.

A jury in one case acquitted a defendant of bribery buying off on the defense he was too intoxicated to form the intent to influence the public official. The defendant had offered a large sum of money to a State Trooper to not arrest him for DUI. The same defendant has a pending failure to stop at direction of a peace officer in the first degree case. In that case, this defendant failed to stop when the same trooper he had tried to bribe saw him driving a brand new Corvette. The trooper knew the defendant had warrants and a suspended operator's license. The defendant also had \$50,000 in cash that was seized after a drug detection canine alerted searchers to the money.

New referrals also kept both the misdemeanor and felony units busy. The grand jury returned 48 indictments during the month. One defendant had the distinction to be indicted during the first week and during the last week of the month. This particular defendant was indicted for theft in the first degree in connection with the theft of a loader and "sale" of the loader to one business in Fairbanks in the middle of September. The business reported the incident when the merchandise, which had been paid for by check, was not delivered. The last week of the month, the same defendant was indicted for theft in the second degree for selling the same loader the third week in September at a reduced price. The purchaser in the latter incident paid by check but also did not receive the loader.

The grand jury also indicted a defendant for burglary in the second degree and misconduct involving controlled substance in the second degree. The defendant was caught inside a local clinic after breaking into a pharmacy located in the clinic. When caught, the defendant was in possession of several thousand tablets containing oxycodone with a value of over \$15,000. The only puzzling aspect to the case was why he also stole a bottle of one hundred estrogen tablets.

Kenai DAO

The Kenai DAO has two felony trials underway. One is a felony assault with a gun in which a neighbor threatened two women who were next door. ADA Angela Jamieson is prosecuting the case. The defense is that the gun just wasn't close enough or wasn't pointed threateningly at the victims. During the trial, the trooper laid the gun on the exhibit table and resumed the witness stand. The judge looked down at the unloaded gun lying on the table and ordered that the gun (which did not have a lock on it) be immediately removed from the courtroom.

The other ongoing trial is for the murder of a mother by a son who stabbed her in the back. He said he did it because she didn't love him. Jury selection has taken a week so far, and some of the jurors seem to want to blame the mother.

“She must have done something wrong for him to behave that way.”

On the morning of trial, the defendant filed a motion to disqualify the judge. The judge denied it and sent it up to the supreme court for review. It assigned an Anchorage judge to consider the matter, during which time the office has been left to wait in limbo.

One interesting trial this month was a reckless driving/leaving the scene of an accident that ADA Jean Seaton tried. The defendant, with a CDL, backed into a car, shoving it across the parking lot. He got out, said he shouldn't drive when he's so tired, and drove away. Shocked bystanders left a note and information so that he could be identified. When the jury convicted on both counts, the soon-to-be-former Judge Landry gave the defendant SISs on both counts, “so he wouldn't lose his CDL and his livelihood.” Of course that was a much lighter resolution than was offered in the plea.

As to new cases, this has been the month for burglaries, thefts, and forgeries as well as an armed robbery. In the robbery, a masked man entered a gas station at about 8:30 in the morning and pointed a pump-action shotgun at the sole female attendant. She was terrified. He took the money and fled in the getaway car. Through some very good—and lucky—detective work, both suspects were caught. The one who confessed said they did it to get money to buy drugs.

There has been a rash of burglaries on the Peninsula this month, and they all seem to be done in groups—both groups of defendants and groups of burglaries. In one case, three defendants stole checks and proceeded to cash 26 of them before they were caught. In another, the thieves stole tools from an emergency services facility that was under construction. And in another, the burglars stole literally everything, including all the kitchen sinks that were in one newly finished and one almost finished residence. They unbolted fixtures from the walls and ceilings, took up carpets, stole all of the appliances, and even took some of the plumbing lines. Drugs were also the motivating factor.

[Nome/Kotzebue DAO](#)

In Kotzebue, ADA Paul Roetman secured a hefty sentence for Tony Richardson. Richardson is a middle-aged Kotzebue contractor with a reputation for flying his private plane to outlying villages for drinking parties attended by girls and young women. (Businessman that he is, Richardson is not known for paying local prices in these “dry” villages.) Such a party occurred in Selawik during the Summer of 2005. Richardson was charged with furnishing alcohol to two 16-year-old girls, a 20-year-old woman, and with sexually assaulting them.

Richardson employed several attorneys, including former Kotzebue DA Max Garner, who mounted a vigorous defense; some twenty-five motions were filed pretrial. Trial was bitterly contested and the jury split its verdicts: guilty on the three furnishing counts, not guilty or hung on the sexual assaults. Sentencing was no less hard fought. Richardson disputed many allegations of the pre-sentence report, requiring extensive testimony in response to his denials.

In the end, Judge Hopwood ordered a substantial sentence: three years to serve, with two suspended; a \$15,000 fine; five years probation, provided he participate in anger management, consume no alcohol, have no contact with the three female victims or their families, not return to Selawik, and write a letter of apology to be published in the Arctic Sounder newspaper and to be posted in the Selawik post office and IRA council office.

ADA Paul Roetman also reports in November, Donald Moto entered his no contest plea to sexual assault against a minor II. Moto is a repeat sex offender on probation for sexual assault against a minor II when he committed his new offense. Moto will serve ten years flat on the new felony and the remaining suspended two on the prior. Moto, twenty-six-years-old, fathered a child with a 15-year-old girl in Deering.

In Nome, ADA Bob Collins is handling the case of Shawn Pushruk. On October 2, 2006, Pushruk terrorized residents of the village of Teller as he

walked through town brandishing a long-bladed hunting knife and a meat cleaver. Pushruk chased several people and slashed a chained-up sled dog before he turned his attention to the village school. School was in session (it was Picture Day), and there he found an electrical contractor just off the plane from Anchorage working on the fire alarm. Pushruk whacked him across the back with the cleaver and fled.

Pushruk took to hiding in the attic of an abandoned building. Inside, he pulled his clothes off, curled up naked in some old animal skins and fell asleep. Directed by villagers to Pushruk, two troopers climbed into the attic guns drawn. Confronted, Pushruk raised the cleaver above his head as if to throw it. A standoff with a potentially fatal outcome ended when Pushruk dropped the knife. A grand jury indicted Pushruk on one count of assault II, two counts of assault III, and one count of cruelty to animals. Pushruk's trial is set for February 2007.

Special Recognition and Thanks. LOA Christine Oles of the Nome DAO was recognized by former Attorney General David Márquez for her 25 years of service at a recent state-wide administrative meeting. The Nome DAO thanks Christine for her years of hard work, and appreciates her dedication as she has reached the midpoint of her career.

Palmer DAO

Theft

Terri L. Trudeau was indicted on charges of theft/misapplication of property and falsifying business records for stealing funds in 2004 to 2006 as a treasurer for the Wasilla High School Football Boosters Club. ADA Suzanne Powell prosecuted this case.

ADA Jarom Bangerter was successful in indicting Mildred Jonathon on nine counts of theft in the second degree. The allegations against Jonathan were that she obtained a checkbook belonging to a non-profit organization and used it to spend over \$40,000.

Emily Saunders was sentenced to 11 years, with six years suspended, and her husband, Emmett Saunders was sentenced to 11 years, with three years suspended, after their pleas of no contest to robbery in the first degree. In May 2006 the couple asked a former employer and owner of the Peking Garden Restaurant in Palmer, Tracy Tzou, for a ride.

During the ride, both produced handguns and demanded money. After Tzou gave them money, they let her out and drove away in Tzou's Lexus sport-utility vehicle. The police located the vehicle at the Merrill Field Inn in Anchorage and arrested the robbers, who still had the money and guns in their possession. Judge Eric Smith found that Emily Saunders, age 22, was substantially influenced by Emmett Saunders, age 54, in the commission of the robbery. Both will be on probation for ten years after serving their prison terms. DA Roman Kalytiak prosecuted the case.

The Palmer grand jury indicted Edgar O. Sims III, Chelsey Munford and Joe A. Garcia on charges including misconduct involving weapons in the second degree, misconduct involving weapons in the third degree, misconduct involving a controlled substance in the fourth degree, forgery in the second degree, theft in the second degree and scheme to defraud. The trio had been forging and passing stolen checks. At the time of his arrest, Sims, a convicted burglar, was in possession of a handgun and cocaine. Prosecutor for the state was ADA Suzanne Powell.

Sexual Abuse & Domestic Violence

ADA Rachel Gernat prosecuted the following sexual abuse and domestic violence cases:

Jason Thompson was indicted on ten counts of sexual abuse of a minor in the second degree for his sexual relationship with a thirteen-year-old girl.

Martin Flemming, a school bus aide, was indicted on two counts of sexual abuse of a minor in the second degree, one count of attempted sexual abuse of a minor in the third degree and multiple counts of harassment.

Richard Horton pled to a consolidated count of sexual abuse of a minor in the first degree and agreed to a sentence of 15 years, with six years suspended.

William McKechnie pled to possession of child pornography and indecent viewing for videotaping his girlfriend's children and downloading child pornography.

Edward Grey pled to assault in the second degree for shooting his wife in the arm during an argument.

Steven Humphrey was sentenced to three years, with one year suspended, for strangling and beating his wife.

Samuel Ives was sentenced to five years, with three years suspended, for strangling his girlfriend. The victim blacked out during the assault, and, when she regained consciousness, Ives told her she should thank him for allowing her to live.

Konstantin Kraskov was indicted for hitting his 17-year-old wife in the face with a shovel.

Other Crimes

Judge Eric Smith, upon a motion by the state, dismissed Paul Stavenjord's application for post-conviction relief, which alleged ineffective assistance of his appellate attorneys. Stavenjord was found guilty of two counts of murder in the first degree in 1998. The prosecutor was DA Roman Kalytiak.

A Palmer jury found Irene Smith guilty of felony DUI. ADA Michael Walsh handled the case for the state.